IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 9078 of 2003

Between:

T. Bhaskar S/o. Late Pedaveeraswamy
O/o. The Commissionerate of Panchayat Ra Himayat Nagar, Hyderabad.

..... PETITIONER

AND

1.The Govt. of A.P., rep. by Secretary, Panchayat Raj and Rural

Development Dept,Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad - 500 022.
2.The Commissioner of Panchayat Raj, Himayatnagar, Hyderabad.
3.Rahman Khan, Senior Assistant, O/o. the Commissioner,
Panchayat Raj and Rural Employment, R/o. Quarter No. 2328,

Janapriya Mahanagaram Meerpet, Saroornagar (M), Ranga

Reddy District.
4.Smt. K.A. Vijayalaxmi, Senior Assistant,
O/o. Commissioner of Panchayat Raj and Rural Employment,

R/o. Chaitanyapuri, Dilsukhnagar, Hyderabad.
5.Smt. A. Girija, Senior Assistant,
O/o. The Commissioner of Panchayat Raj and Rural

Employment, R/o. Chikkadpalli,
Hyderabad.

6.T.M.B. Butchi Raju, Senior Assistant,
O/o. The Commissioner of Panchayat Raj and Rural

Employment, R/o. Risala Gadda,
Golconda X Roads, Hyderabad.
7.M.A. Aleem, Superintendent,
O/o. Commissioner of Panchayat Raj and Rural Employment,

Andhra Pradesh, Hyderabad.

8.E. Krishna Mohan, Superintendent,
O/o. Commissioner fo Panchayat Raj and Rural Employment,

Andhra Pradesh, Hyderabad
9.G. Prabhakar, Superintendent
O/o. Commissioner for Panchayat Raj and Rural Employment,

Andhra Pradesh, Hyderabad

RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of CERTIORARI to call for the records relaxed to and connected with judgment and Hon'ble Andhra Pradesh Administrative Tribunal dated 12-12-2002, rendered in O.A.No. 1141 of 2001 quash or set aside the same and further declare the Proceedings Rc.No. 6860/CPR&RL-82/96 dated 28-07-2001 of the second respondent as bad, illegal, arbitrary and unconstitutional and consequently direct the respondents to promote the petitioner as Office Superintendent on and from the date of his eligibility holding the action of respondents in promoting persons belonging to Typists, Junior Assistants and Stenographer cadre of subordinate Offices transferred to Head Office on temporary basis as illegal, arbitrary and unconstitutional with all consequential benefits.

Counsel for the Petitioner :MR.P.NAVEEN RAO

Counsel for the Respondent No.: GP FOR SERVICES II

Counsel for Respondent No.3:- MR. D.GOVARDHANA CHARY

The Court made the following :

ORDER: (Per the Hon'ble Sri Justice G.Bikshapathy)

-

-

This writ petition is filed assailing the order dated 12-12-2002 in O.A.No.1141 of 2001 on the file of the A.P. Administrative Tribunal.

2. The petitioner is applicant before the Tribunal. He filed the O.A. directing the Official Respondents to retain only the deputationists appointment by transfer as per the statutory rules and prepare seniority list accordingly and to promote the applicant as Superintendent based on such exercise with all consequential benefits or in the alternative to treat the Applicant as senior to those Senior Assistants who are more than their quota and to promote the Applicant as Superintendent with all consequential benefits by holding the action of the Respondents in continuing the deputationists/persons appointed by recruitment, by transfer over and above their quota and denying promotion of the Applicant by placing the applicant below such candidates and rejecting the claim of the Applicant through proceedings issued by the Commissioner of Panchayatraj in R.C.No.6860/CPR & RL-82/96, dated 28-7-2001 as bad, arbitrary, illegal and violative of A.P Ministerial Service Rules.

3. The petitioner was initially appointed on 9-8-1989 as Junior Assistant and thereafter, he went on deputation to some other department. But, in the meanwhile number of persons came to the Panchayatraj Department on deputation and their services were also regularized. However, the petitioner came back to parent department in November, 1998. Thereafter, certain seniority lists were issued in respect of Junior Assistants. Even though some of the persons were promoted to the higher posts, the petitioner did not file any objections and only after a lapse of 15 years, he made representations to the authorities to fix his seniority above the deputationists and promote him to the higher post including the post of Superintendent. The same was rejected by the authority by order dated 28-7-2001. Aggrieved by the said order, he filed O.A.No. 1141 of 2001. The learned Tribunal after considering the matter elaborately, rejected the claim of the petitioner by order dated 12-12-2002 , against which the present Writ Petition has been filed.

4. The learned counsel for the petitioner submits that the Tribunal having accepted the contention of the petitioner to the effect that the absorption of the deputation itself is not permissible under the Rules and erroneously held that the petitioner is not entitled for fixation of the seniority on the ground of delay. In fact, the learned counsel would submit that there was no delay on the part of the petitioner as soon as he came to the department he started making representations. But, he could not make such representations, when he went on deputation and he was not aware of the situation and what was happening in his own department. Therefore, for the mistakes of the department, the petitioner should not be allowed to suffer. The learned counsel would also take this Court to various circulars issued by the department from time to time relating to fixation of seniority and also absorption of deputationists. Hence, the learned counsel would submit that the order of the Tribunal is liable to be set aside and he is entitled for proper fixation of seniority.

5. We also heard the learned Government Pleader for respondents.

6. The Tribunal mainly dismissed the O.A. on the ground that there are unexplainable laches on the part of the petitioner. The Tribunal further categorically observed that the petitioner kept quite for more than 15 years and after a lapse of 15 years, by which time, the entire thing was crystallized, in such a situation, the Tribunal found it appropriate not to unsettle the seniority of the petitioner. The Tribunal in paragraphs 13 and 14 observed as follows:

> *"from the material made available by the official respondents as far as Junior Assistants are concerned 15 persons were taken on transfer from the year 1980 to May, 1991. Out of them 9 persons are no longer working in Commissioner's Office as some of them have expired or retired or now working as EO, Panchayats. Out of the remaining 6 persons, one person was transferred in 1980, two persons were transferred in 1985, two persons were transferred in 1990 and one person was transferred in 1991. Services of three Junior Assistants were regularized in the year 1985 i.e., more than 15 years back and even before the applicant was recruited as Junior Assistant. They were all promoted as Senior Assistants during 1982/1987/1990. They were further promoted as Superintendents in 1987/2000. As regards the other 3 Junior Assistants they were absorbed in the Commissioner's Office subsequent to the appointment of the Applicant, and therefore, their absorption in excess of the quota should not normally result in any prejudice to the applicant as they are juniors to the Applicant in the category of Junior Assistants. However, they*

were promoted as Senior Assistants earlier to the Applicant in 1991/1994 not because they are seniors to the Applicant but because the Applicant has not qualified himself for promotion till 1996, and, therefore, any delay in the promotion of the Applicant is not on account of transfer of the three Junior Assistants in excess of the quota but because of his failure to pass the required departmental tests.

As far as the Typists are concerned 26 Typists were posted on transfer/deputation during 1984 to 1990. Out of them 9 Typists are no longer working in the office of the Commissioner of Panchayatraj as they were subsequently appointed as EOs, Panchayats/DLPO/ retired, etc., and one person is working as LD Steno leaving 16 persons. Out of them 8 persons were transferred to the Commissioner's Office during 1983 to 1986 as Typists i.e. more than 15 years back and prior to the date of the appointment of the Applicant as Junior Assistant. Out of them 5 persons were promoted as Senior Assistants even before the applicant joined service in 1989 and they are working as Superintendents now. One of them has put in more than 7 years of service as Superintendent and others have put in more than 2 years service as Superintendents out of the remaining 8 persons though they were working in the office of the Commissioner from 1986/1988/1990 they were absorbed in the office of the Commissioner during 1988/ 1990/ 1999/ 1995. They were further promoted as Senior Assistants during 1990/1991/1993/1996 and 1998. Their services in the category of Senior Assistants were also regularized.

14: After the applicant joined service, a combined seniority list of Typists and Junior Assistants has been communicated through reference dated 25-7-1990 of the Commissioner and it was served on the Applicant in July, 1990. The applicant did not raise any objection to the seniority lists. Even after the Applicant joined service, some Typists/Junior Assistants who were transferred from Subordinate Offices were promoted as Senior Assistants. The applicant had not raised any objection regarding their promotion. The authorities have issued seniority lists in the category of Senior Assistants in 1990/1994 for which the Applicant did not raise any objection. Some of them were later promoted as Superintendents. The Applicant did not question their promotions. For the first time, in the year 2000 the Applicant raised a dispute on the ground that Typists/Junior Assistants were drawn from Subordinate Offices in excess of their quota. The transfers in most of the cases were made more than 15 years back. Their services were regularized and they were later promoted as Senior Assistants and some of them were further

promoted as Superintendents. It is well settled law that settled things cannot be unsettled after long time."

7. The Tribunal also referred to the decision of the ***P.S.Sadasiva Swamy Vs. State of Tamil Nadu*** wherein it was held as follows:

"But, it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary power under Art. 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle the settled matters".

8. The Tribunal also referred to the decisions of the Supreme Court reported in ***Government of A.P..Vs. M.A. Kareem*** , **and K.A.Abdul Majid Vs. State of Kerala** and also a decision of this Court in **N.Kotam Raju Vs. Regional Deputy Director** observed that the settled legal position cannot be interfered with transfers/absorptions made in the category of typists/Junior Assistants to the office of Commissioner more than a decade ago and also with the dates of the irregular regularization on the ground that they were transferred to the office of the Commissioner in excess of their quota. Consequently, their Seniority in the category of Typists/Junior Assitants and further promotions as Senior Assitants/Superintendents do not call for any interference.

9. Having perused the order, we are satisfied that there are any amount of unexplained laches on the part of the petitioner. He kept quite for more than 1 ½ decade by which time the absorption, transfer, fixation of seniority were settled long time ago.

10. Under those circumstances, even though, the petitioner may be having good case on merits, yet as he did not approach the authorities at the relevant point of time, he cannot get the relief.

11. Under those circumstances, we do not find any merit in the writ petition.

12. Accordingly the writ petition is dismissed. No order as to costs.

_____

G.Bikshapathy, J.

_____

P.S.Narayana, J.

15th March, 2005.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, the Govt. of A.P., Panchayat Raj and Rural

Development Dept, Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad -

500 022.
2.The Commissioner of Panchayat Raj, Himayatnagar, Hyderabad.
3.2 CCs to G.P. for Services-II, High Court Buildings, Hyd.(OUT)

4. 2 CD copies

5 1 CC to MR.NAVEEN RAO

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

-

WRIT PETITION NO : 9078 of 2003

-

-

-

-

-

-

-

-

-

-

-

15th March, 2005